

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JOHN DOE 1, JOHN DOE 2, JANE DOE
1, JANE DOE 2, JANE DOE 3, and all
persons similarly situated,

Plaintiffs,

v.

WASHINGTON STATE DEPARTMENT
OF CORRECTIONS, and STEPHEN
SINCLAIR, Secretary of the Department
of Corrections, in his official capacity,

Defendants,

and

BONNEVILLE INTERNATIONAL INC.,
a Utah Corporation d.b.a. KIRO RADIO
97.3 FM; and THE MCCLATCHY
COMPANY, LLC, a California Limited
Liability Company d.b.a. THE TACOMA
NEWS TRIBUNE,

Interested Parties.

NO. 4:21-CV-5059-TOR

ORDER ON MISCELLANEOUS
RELIEF

1 Interested Parties. ECF No. 1. DOC and Stephen Sinclair, the Secretary of the
2 DOC, were the only named Defendants in the Complaint; News Tribune and two
3 other entities were identified as Interested Parties. *Id.*

4 Plaintiffs then filed a motion for temporary restraining order on April 8,
5 2021. ECF No. 6. That same day, Plaintiffs emailed News Tribune and the other
6 Interested Parties the documents filed in the case and inquired whether the parties
7 would be willing to accept service. ECF No. 66 at 2. Counsel for News Tribune
8 indicated News Tribune would only accept service through its registered agent. *Id.*
9 Plaintiffs served hard copies to News Tribune's registered agent on April 12, 2021.
10 *Id.*

11 News Tribune filed the present opposition and motion on April 23, 2021.
12 ECF No. 42. At the time, Plaintiffs' Motion for Preliminary Injunction was
13 scheduled for oral argument on May 12, 2021. ECF No. 7. News Tribune noted
14 its motion for hearing without oral argument on May 24, 2021; it did not seek
15 expedited review. ECF No. 42. Nonetheless, the Court permitted News Tribune's
16 appearance at the preliminary injunction hearing and heard its oral arguments on
17 the present motion. ECF No. 64.

18 News Tribune's pleading opposes Plaintiffs' Motions for Preliminary
19 Injunction and Class Certification, which the Court granted on May 17, 2021. ECF
20 Nos. 69, 70. The present motion also seeks dismissal or transfer for lack of subject

1 matter jurisdiction, or in the alternative, a continuance of Plaintiffs’ motions, and a
2 request for costs and fees. ECF No. 42. Defendant DOC does not oppose News
3 Tribune’s motion. ECF No. 65. Plaintiffs oppose the motion on the grounds that,
4 *inter alia*, News Tribune lacks standing. ECF No. 66 at 3.

5 DISCUSSION

6 News Tribune is not a named party in this case, nor has it moved to
7 intervene. Therefore, News Tribune lacks standing to bring the present motions.
8 Article III, § 2, of the Constitution confines federal courts to the decision of
9 “Cases” or “Controversies.” *Arizonans for Off. Eng. v. Arizona*, 520 U.S. 43, 64,
10 (1997). Standing to sue or defend is an aspect of the case-or-controversy
11 requirement. *Id.* (citing *Northeastern Fla. Chapter, Associated Gen. Contractors*
12 *of America v. Jacksonville*, 508 U.S. 656, 663–664 (1993) (standing to sue);
13 *Diamond v. Charles*, 476 U.S. 54, 56 (1986) (standing to defend on appeal)). To
14 qualify as a party with standing to litigate, a person must show, first and foremost,
15 “an injury in fact—an invasion of a legally protected interest which is (a) concrete
16 and particularized, and (b) actual or imminent, not conjectural or hypothetical.”
17 *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992). “An interest shared
18 generally with the public at large in the proper application of the Constitution and
19 laws will not do.” *Arizonans for Off. Eng.*, 520 U.S. at 64 (citations omitted).

20 Here, News Tribune cannot meet the threshold issue of injury in fact because

1 it has not identified a legally protected interest. Throughout its motion, News
2 Tribune refers broadly to “the requestors’ rights to receive public records under the
3 PRA.” *See, e.g.*, ECF No. 42 at 4; at 8. Beyond this general interest, News
4 Tribune fails to identify a specific right that is actually or imminently under threat
5 of invasion. Indeed, News Tribune itself seems unclear what rights it has to be
6 heard in the present lawsuit. *See* ECF No. 42 at 8 (claiming that service upon
7 News Tribune as “interested party” made it unclear what rights it had to be heard
8 or to participate in the litigation). The injury in fact inquiry requires a party to
9 demonstrate they are “among the injured.” *Lujan*, 504 U.S. at 563 (citation
10 omitted). News Tribune’s claims are more akin to “an interest shared generally
11 with the public at large,” which is insufficient to establish injury in fact. *Arizonans*
12 *for Off. Eng.*, 520 U.S. at 64 (citations omitted).

13 News Tribune’s remaining arguments relate to various claims for procedural
14 relief. *See generally* ECF No. 42. Because News Tribune has not established how
15 the right to receive public records is concrete and particular to itself or how those
16 rights are under threat of actual or imminent invasion, the Court finds News
17 Tribune lacks standing to bring the present motions. Therefore, the Court cannot
18 reach the motion’s substantive issues.

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1 **ACCORDINGLY, IT IS HEREBY ORDERED:**

2 News Tribune's Opposition to Plaintiffs' Motions for Preliminary Injunction
3 and Class Certification; Motion to Dismiss or Transfer; Motion for Continuance of
4 Plaintiffs' Motions; and Motion for Award of Fees and Costs (ECF No. 42), is
5 **DENIED.**

6 The Clerk of Court is directed to terminate The McClatchy Company, d.b.a.
7 The Tacoma News Tribune as an Interested Party in the docket of this case.

8 The District Court Executive is directed to enter this Order and furnish
9 copies to all counsel of record.

10 DATED June 1, 2021.



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A handwritten signature in blue ink that reads "Thomas O. Rice".

THOMAS O. RICE
United States District Judge